



RECEIVED  
JUN 13 2003  
TECHNOLOGY CENTER R3700

DAC 9200

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant(s): Scott R. Smith et al.

Examiner: Michael H. Thaler

Application No.: 09/691,782

Group Art Unit: 3731

Filed: October 19, 2000

Confirmation No.: 3708

For: IMPROVED  
COVERED STENT

Docket: 760-3 RES

Dated: June 4, 2003

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postpaid, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Date: June 4, 2003

Signature: K.J. Goodhand/ *K.J. Goodhand*

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION REQUESTING WITHDRAWAL OF ABANDONMENT**  
**UNDER 37 C.F.R. §1.181(a)**

Sir:

Applicants herein petition the Commissioner to withdraw a holding of Abandonment and enter the amendment dated November 5, 2002 for the above-referenced application. This Petition Under 37 C.F.R. §1.181(a) is being submitted in accordance with MPEP §711.03(c) as a Petition to Withdraw a Holding of an Abandoned Application because the Examiner failed to enter an amendment properly filed which should have been entered.

Application No.: 09/691,782  
Filing Date: October 19, 2000  
Docket No.: 760-3 RES  
Page 2

In an advisory action mailed December 9, 2002, the Examiner indicates that the amendment would not be entered because, "the new issues arise from the proposed amendment which, if entered, would result in a situation in which there would be no amendment relative to the patent (i.e. no difference between the patent and the application) and thus no error in the patent to provide grounds for this reissue application."

The Examiner's statement however, is not factually accurate. The Examiner contends that if claims 1-14 issued on this application, that there would be no difference, or no error from the original patent upon which the reissue is based. This is incorrect. Applicants submitted an Amendment and Response under 37 C.F.R. §1.116 on September 3, 2002 which amended original claims 5 and 7 of the application. The file history therefore reveals that the Examiner's statement in the advisory action is not accurate.

Because Applicants amended claims 5 and 7 based on the Examiner's suggestions, the patent would issue with notable differences between the original patent and the reissue patent. Applicants further elected these claims which were deemed allowable by the Examiner and reserved the right to prosecute reissue claims in a continuation application.

It is further established by the Code of Federal Regulations at 37 C.F.R. §1.176 and §1.177 that the practice of filing and the issuance of multiple reissue patents is accepted procedure. Applicants therefore respectfully request withdrawal of the holding of abandonment and entrance of the amendment by the Applicants.

According to MPEP §711.03(c) a Petition Under 37 C.F.R. §1.181(a) is appropriate where an application is not in fact abandoned. Withdrawal of the Holding of Abandonment is therefore requested. No fee is deemed necessary as stipulated in §711.03(c). This Petition is

Application No.: 09/691,782  
Filing Date: October 19, 2000  
Docket No.: 760-3 RES  
Page 3

further being filed within the two-month time limit required by 37 C.F.R. §1.181(f) of two-months. Reconsideration is respectfully requested.

Respectfully submitted,



---

Mark E. Baron  
Registration No. 46,150  
Attorney for Applicant(s)

HOFFMANN & BARON, LLP  
6900 Jericho Turnpike  
Syosset, NY 11791  
(973) 331-1700



Docket: 14685

DAE  
(M+S)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named  
Inventor: Bradford C. Fowler  
Appln. No.: 08/604,203  
Filed: February 21, 1996  
Patent No.: 5,716,375  
Issue Date: February 10, 1998  
Title: Insertion Assembly and Method of Inserting a Vessel Plug into the Body of a Patient

RECEIVED  
JUN 13 2003  
TECHNOLOGY CENTER R3700

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF  
MAINTENANCE FEE IN AN EXPIRED PATENT 37 CFR 1.378(C)

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

I hereby certify that this document is being sent via First Class U.S. mail  
addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450,  
Alexandria, VA 22313-1450 on this 3 day of June, 2003.

Frances Exner  
(Signature)

Sir:

Applicant hereby petitions for acceptance of the 7 ½ year maintenance fee for the above-identified patent.

A check for the maintenance fee and surcharge is enclosed, as referenced in the attached Fee Transmittal Sheet. The office is also hereby authorized to charge any deficiency or credit any overpayment associated with this Petition to Deposit Account No. 04-1420.

The delay in payment of the maintenance fee was unintentional.

Applicant requests that the delayed payment of the maintenance fee be accepted and the patent reinstated.

Respectfully submitted,

DORSEY & WHITNEY LLP  
Customer Number 25763

By:

David E. Bruhn

David E. Bruhn, (Reg. No. 36,762)  
Intellectual Property Department  
Suite 1500, 50 South Sixth Street  
Minneapolis, MN 55402-1498  
(612) 340-6317

Date:

June 3, 2003



# FEE TRANSMITTAL SHEET (FY 2003)

Complete if Known

Patent No. 5,711,115  
Issue Date February 10, 1998  
First Named Inventor Bradford C. Fowler  
Group Art Unit  
Examiner Name  
Atty. Docket Number 14685

RECEIVED

JUN 13 2003

TECHNOLOGY CENTER R3700

METHOD OF PAYMENT (Check One)				FEE CALCULATION (Continued)																																																																																																																			
<p>1. <input type="checkbox"/> The Commissioner is hereby authorized to charge indicated fees and credit any over payments to: Deposit Account No.: 04-1420 Deposit Account Name: DORSEY &amp; WHITNEY LLP</p> <p><input checked="" type="checkbox"/> Charge any additional fee required under 37 C.F.R. 1.16 and 1.17 <input type="checkbox"/> Applicant claims small entity status (see 37 C.F.R. 1.27)</p> <p>2. <input checked="" type="checkbox"/> Check Enclosed</p>				<p>3. ADDITIONAL FEES</p> <table border="1"><thead><tr><th>Large Entity Fee</th><th>Small Entity Fee</th><th>Fee Description</th><th>Fee paid</th></tr></thead><tbody><tr><td>50</td><td>25</td><td>Surcharge - late provisional filing fee or cover sheet</td><td></td></tr><tr><td>130</td><td>65</td><td>Surcharge - Late nonprovisional filing fee or oath</td><td></td></tr><tr><td>180</td><td>180</td><td>Submission of IDS</td><td></td></tr><tr><td>40</td><td>40</td><td>Recording each patent assignment per property (times number of properties)</td><td></td></tr><tr><td>110</td><td>55</td><td>Extension for reply within first month</td><td></td></tr><tr><td>410</td><td>205</td><td>Extension for reply within second month</td><td></td></tr><tr><td>930</td><td>465</td><td>Extension for reply within third month</td><td></td></tr><tr><td>1,450</td><td>725</td><td>Extension for reply within fourth month</td><td></td></tr><tr><td>1,970</td><td>985</td><td>Extension for reply within fifth month</td><td></td></tr><tr><td>750</td><td>375</td><td>Submission After Final 1.129</td><td></td></tr><tr><td>320</td><td>160</td><td>Notice of Appeal</td><td></td></tr><tr><td>320</td><td>160</td><td>Filing a brief in support of an appeal</td><td></td></tr><tr><td>280</td><td>140</td><td>Request for oral hearing</td><td></td></tr><tr><td>110</td><td>55</td><td>Terminal Disclaimer Fee</td><td></td></tr><tr><td>130</td><td>130</td><td>Petitions to the Commissioner</td><td></td></tr><tr><td>50</td><td>50</td><td>Petitions related to provisional applications</td><td></td></tr><tr><td>1,300</td><td>650</td><td>Utility/Reissue Issue Fee (including advance copies)</td><td></td></tr><tr><td>470</td><td>235</td><td>Design Issue Fee (inc. advance copies)</td><td></td></tr><tr><td>750</td><td>375</td><td>Request for Continued Examination (RCE)</td><td></td></tr><tr><td>300</td><td>300</td><td>Publication fee for early, voluntary, or normal publication</td><td></td></tr><tr><td>300</td><td>300</td><td>Publication fee for re-publication</td><td></td></tr><tr><td>110</td><td>55</td><td>Petition to Revive - unavoidable</td><td></td></tr><tr><td>1,300</td><td>650</td><td>Petition to Revive - unintentional</td><td></td></tr><tr><td colspan="3">OTHER FEE (specify) 1558 Surcharge Fee</td><td>\$1,640</td></tr><tr><td colspan="3">1552 Maintenance Fee</td><td>\$2,050</td></tr><tr><td colspan="3">Subtotal (3)</td><td></td></tr><tr><td colspan="3">Total Amount of Payment:</td><td>\$3,690</td></tr></tbody></table>				Large Entity Fee	Small Entity Fee	Fee Description	Fee paid	50	25	Surcharge - late provisional filing fee or cover sheet		130	65	Surcharge - Late nonprovisional filing fee or oath		180	180	Submission of IDS		40	40	Recording each patent assignment per property (times number of properties)		110	55	Extension for reply within first month		410	205	Extension for reply within second month		930	465	Extension for reply within third month		1,450	725	Extension for reply within fourth month		1,970	985	Extension for reply within fifth month		750	375	Submission After Final 1.129		320	160	Notice of Appeal		320	160	Filing a brief in support of an appeal		280	140	Request for oral hearing		110	55	Terminal Disclaimer Fee		130	130	Petitions to the Commissioner		50	50	Petitions related to provisional applications		1,300	650	Utility/Reissue Issue Fee (including advance copies)		470	235	Design Issue Fee (inc. advance copies)		750	375	Request for Continued Examination (RCE)		300	300	Publication fee for early, voluntary, or normal publication		300	300	Publication fee for re-publication		110	55	Petition to Revive - unavoidable		1,300	650	Petition to Revive - unintentional		OTHER FEE (specify) 1558 Surcharge Fee			\$1,640	1552 Maintenance Fee			\$2,050	Subtotal (3)				Total Amount of Payment:			\$3,690
Large Entity Fee	Small Entity Fee	Fee Description	Fee paid																																																																																																																				
50	25	Surcharge - late provisional filing fee or cover sheet																																																																																																																					
130	65	Surcharge - Late nonprovisional filing fee or oath																																																																																																																					
180	180	Submission of IDS																																																																																																																					
40	40	Recording each patent assignment per property (times number of properties)																																																																																																																					
110	55	Extension for reply within first month																																																																																																																					
410	205	Extension for reply within second month																																																																																																																					
930	465	Extension for reply within third month																																																																																																																					
1,450	725	Extension for reply within fourth month																																																																																																																					
1,970	985	Extension for reply within fifth month																																																																																																																					
750	375	Submission After Final 1.129																																																																																																																					
320	160	Notice of Appeal																																																																																																																					
320	160	Filing a brief in support of an appeal																																																																																																																					
280	140	Request for oral hearing																																																																																																																					
110	55	Terminal Disclaimer Fee																																																																																																																					
130	130	Petitions to the Commissioner																																																																																																																					
50	50	Petitions related to provisional applications																																																																																																																					
1,300	650	Utility/Reissue Issue Fee (including advance copies)																																																																																																																					
470	235	Design Issue Fee (inc. advance copies)																																																																																																																					
750	375	Request for Continued Examination (RCE)																																																																																																																					
300	300	Publication fee for early, voluntary, or normal publication																																																																																																																					
300	300	Publication fee for re-publication																																																																																																																					
110	55	Petition to Revive - unavoidable																																																																																																																					
1,300	650	Petition to Revive - unintentional																																																																																																																					
OTHER FEE (specify) 1558 Surcharge Fee			\$1,640																																																																																																																				
1552 Maintenance Fee			\$2,050																																																																																																																				
Subtotal (3)																																																																																																																							
Total Amount of Payment:			\$3,690																																																																																																																				
<p>1. BASIC FILING FEE</p> <table border="1"><thead><tr><th>Large Entity Fee</th><th>Small Entity Fee</th><th>Fee Description</th></tr></thead><tbody><tr><td>160</td><td>80</td><td><input type="checkbox"/> Provisional Filing Fee</td></tr><tr><td>750</td><td>375</td><td><input type="checkbox"/> Utility Filing Fee</td></tr><tr><td>330</td><td>165</td><td><input type="checkbox"/> Design Filing Fee</td></tr><tr><td>750</td><td>375</td><td><input type="checkbox"/> Reissue Filing Fee</td></tr><tr><td colspan="3">Subtotal (1)</td></tr></tbody></table>				Large Entity Fee	Small Entity Fee	Fee Description	160	80	<input type="checkbox"/> Provisional Filing Fee	750	375	<input type="checkbox"/> Utility Filing Fee	330	165	<input type="checkbox"/> Design Filing Fee	750	375	<input type="checkbox"/> Reissue Filing Fee	Subtotal (1)																																																																																																				
Large Entity Fee	Small Entity Fee	Fee Description																																																																																																																					
160	80	<input type="checkbox"/> Provisional Filing Fee																																																																																																																					
750	375	<input type="checkbox"/> Utility Filing Fee																																																																																																																					
330	165	<input type="checkbox"/> Design Filing Fee																																																																																																																					
750	375	<input type="checkbox"/> Reissue Filing Fee																																																																																																																					
Subtotal (1)																																																																																																																							
<p>2. EXTRA* CLAIM FEES</p> <table border="1"><thead><tr><th>Number Claims</th><th>Prior</th><th>Extra</th><th>Fee from Below*</th><th>Fee Paid</th></tr></thead><tbody><tr><td>Total</td><td>20</td><td>x</td><td></td><td></td></tr><tr><td>Indep.</td><td>3</td><td>x</td><td></td><td></td></tr><tr><td>Multiple Dependent Claims</td><td></td><td>x</td><td></td><td></td></tr><tr><td colspan="5">Subtotal (2)</td></tr></tbody></table>				Number Claims	Prior	Extra	Fee from Below*	Fee Paid	Total	20	x			Indep.	3	x			Multiple Dependent Claims		x			Subtotal (2)																																																																																															
Number Claims	Prior	Extra	Fee from Below*	Fee Paid																																																																																																																			
Total	20	x																																																																																																																					
Indep.	3	x																																																																																																																					
Multiple Dependent Claims		x																																																																																																																					
Subtotal (2)																																																																																																																							
<p>*Calculation of Extra Claim Fees</p> <table border="1"><thead><tr><th>Large Entity Fee</th><th>Small Entity Fee</th><th>Fee Description</th></tr></thead><tbody><tr><td>18</td><td>9</td><td>Claims in excess of 20</td></tr><tr><td>84</td><td>42</td><td>Independent claims in excess of 3</td></tr><tr><td>280</td><td>140</td><td>Multiple dependent Claim</td></tr><tr><td>84</td><td>42</td><td>Reissue independent claims over original patent</td></tr><tr><td>18</td><td>9</td><td>Reissue claims in excess of 20 and over original patent</td></tr></tbody></table>				Large Entity Fee	Small Entity Fee	Fee Description	18	9	Claims in excess of 20	84	42	Independent claims in excess of 3	280	140	Multiple dependent Claim	84	42	Reissue independent claims over original patent	18	9	Reissue claims in excess of 20 and over original patent																																																																																																		
Large Entity Fee	Small Entity Fee	Fee Description																																																																																																																					
18	9	Claims in excess of 20																																																																																																																					
84	42	Independent claims in excess of 3																																																																																																																					
280	140	Multiple dependent Claim																																																																																																																					
84	42	Reissue independent claims over original patent																																																																																																																					
18	9	Reissue claims in excess of 20 and over original patent																																																																																																																					

Submitted by:

CUSTOMER NUMBER <b>25763</b>	DORSEY & WHITNEY LLP	Intellectual Property Department Suite 1500, 50 South Sixth Street Minneapolis, MN 55402
Name: David E. Bruhn	Phone No.: (612) 340-6317	Fax No.: (612) 340-8856
Signature: <i>David E. Bruhn</i>	Reg. No.: 36,762	Date: <i>June 3, 2003</i>